



Eagle Lake

MOTOR VEHICLE DIVISION ENFORCMENT SECTION ANNUAL REPORT FOR FISCAL YEAR 2008





Lake Austin

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Pedernales Falls

2008 – MOVING FORWARD

Fiscal year 2008 saw long-awaited forward movement. The new LACE computer system was up and running and FY 08 was the first full year of operating under this new paperless system. Time was recouped that had previously been devoted to testing. Workers could turn their full attention back to their primary duties.

The number of Dealer Training Seminars was increased from 8 to 11 in anticipation of the new E-tag that would become mandatory in FY 2009. To prepare for the launch of the new E-tag a training video was produced for law enforcement officers and distributed to federal, state and local law enforcement offices throughout the state.

An investigator was assigned to San Antonio for more local presence. This resulted in increased responsiveness and developed a positive face-to-face relationship with other local agencies. The success of this satellite office will result in several other local reassignments that will be coming in the next fiscal year.

In September of 2007, the contested cases of Enforcement were moved to the State Office of Administrative Hearings (SOAH). Later in the year, after amending the rules, a procedure was implemented returning default cases to MVD from SOAH, thereby reducing the cost of contested case proceedings at SOAH.

A total reimbursement of \$426,394 to consumers was the result of mediation efforts by investigators and attorneys.

INVESTIGATIONS OPENED

Complaints received increased over last year, taking an upswing for the first time in three years. While a decrease occurred in internal complaints and complaints from law enforcement, all other categories saw higher numbers.

ORIGIN OF COMPLAINTS FOR FISCAL YEAR 2008

	LICENSEES & ASSOCS.	CONSUMERS	OTHER AGENCIES, LEGIS.	RED FLAG	LAW ENFORCE- MENT	INTER- NAL	ANONY- MOUS	TOTAL
FRANCHISE	201	514	53	0	26	161	131	1086
INDEPENDENT	68	958	372	0	174	216	44	1832
UNLICENSED	87	321	138	0	54	117	35	752
OTHER LICENSEE	10	13	8	0	1	13	2	47
TOTAL	366	1806	571	0	255	507	212	3717

COMPARED TO PRIOR YEARS HISTORY

	LICENSEES & ASSOCS.	CONSUMERS	OTHER AGENCIES, LEGIS.	RED FLAG	LAW ENFORCE- MENT	INTER- NAL	ANONY- MOUS	TOTAL
2002	430	1910	721	66	265	616	318	4326
2003	474	1885	1344	94	221	940	260	5218
2004	530	1670	1026	65	370	866	319	4846
2005	642	2066	480	17	905	986	271	5367
2006	375	1773	469	1	648	1123	235	4624
2007	339	1430	466	21	265	634	179	3334
2008	366	1806	571	0	255	507	212	3717

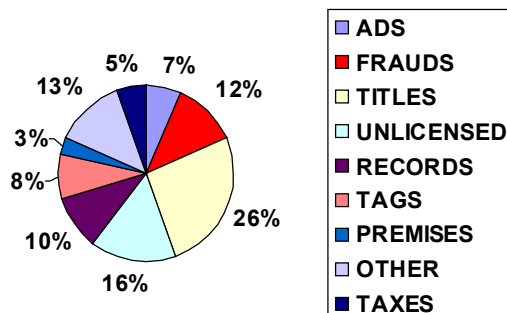
49% of complaints received by MVD are from consumers. Tax Assessors and Collectors and internal sources represent 28% (or 14% each) of complaints received. Licensees turn in 9% of the complaints and Law Enforcement turns in 7%.

Failure to apply timely for titles represents 52% of those complaints received from consumers or 25% of the all complaints MVD receives. This is the number one complaint filed with the Division.

"COUNTS" NOW COUNTED

The figures on the previous page represent files that were opened as a result of a complaint. Until the advent of LACE, this was the only item that could be counted. However, many complaints involved two or more actual allegations of violations. For example there might be one file opened about a dealer not applying timely for titles. In the course of the investigation more actual violations might be found such as inadequate or no records being kept. Before LACE, only one violation per file could be counted as it was impossible to ascertain how many "counts" and what different violations were actually pursued in the file. Being able to identify the individual counts and other violations allows for more accurate reports on the type and number of violations being looked at, but also to better account for time spent on investigations. In the FY 2008, Enforcement received 3717 complaints. These complaints actually involved 7323 alleged violations, almost twice the number of files opened.

FY 2008 VIOLATIONS INVESTIGATED

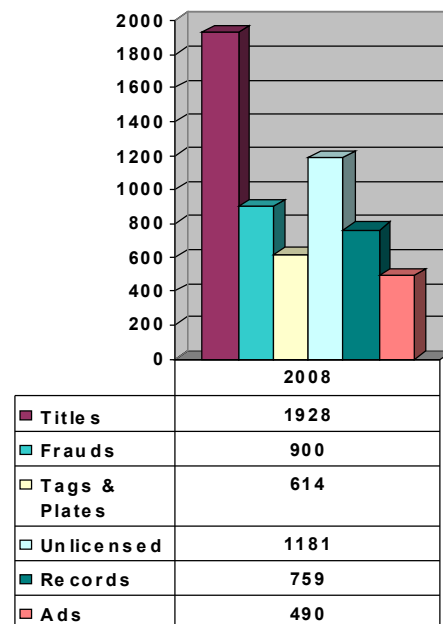


Looking at the total counts, not the number of files opened, figures now show that handling titles still remains the number one problem among dealers. This category includes: not applying for title timely, keeping open titles, and not having title when vehicles are sold.

The 7323 violations that were investigated as a result of 3717 files opened demonstrated that advertising violations has dropped out of the top five complaints to the number six position. A consumer needing their title has remained the number one complaint. In FY 2007, MVD received 983 complaints about titles. This year that figure rose to 1018 files opened on this violation. These 1018 files actually turned into 1928 title violations that MVD investigated.

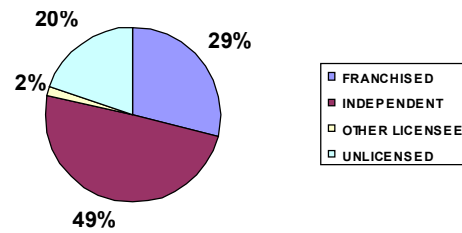
In FY 2007 it was reported that 88 violations of the records rule were investigated. But this violation is usually not discovered until a dealer is asked for records in connection with some other complaint. With the ability to now count separate violations within a file, we find that the allegations of records violations is really 759, much higher than originally contemplated.

TOP SIX VIOLATIONS (COUNTS) IN FY 2008

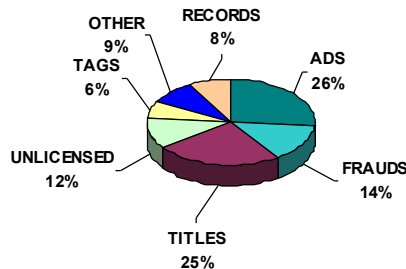


Percentage wise, complaints against independent dealers comprised 49% of the 3717 complaints received in FY 2008, the same as last year. In FY 2007, franchised dealers had comprised 30% of the total complaints. This year that figure decreased by 1%. This 1% was picked up by the number of complaints received on miscellaneous licensees thus showing very little change in the distribution of complaints among licensees.

INVESTIGATIONS OPENED BY TYPE OF LICENSEE IN FY 08



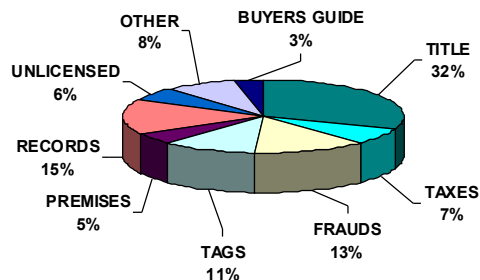
COUNTS IN COMPLAINTS RECEIVED ON FRANCHISED DEALERS IN FY 2008



In the past advertising violations seemed to represent the primary issue for franchised dealers. However, when one looks at the counts, or individual allegations of violations, it becomes noticeable that problems in handling titles, is a very close second in problems for franchised dealers.

Used vehicle dealers have historically had the highest number of enforcement complaints regarding title transfer problems, the number one complaint received by the division. Looking at the individual counts FY 2008 was no exception. Title problems were more than double the number two offense of record violations. Violations involving records show significantly higher than past years when looking at the number of counts.

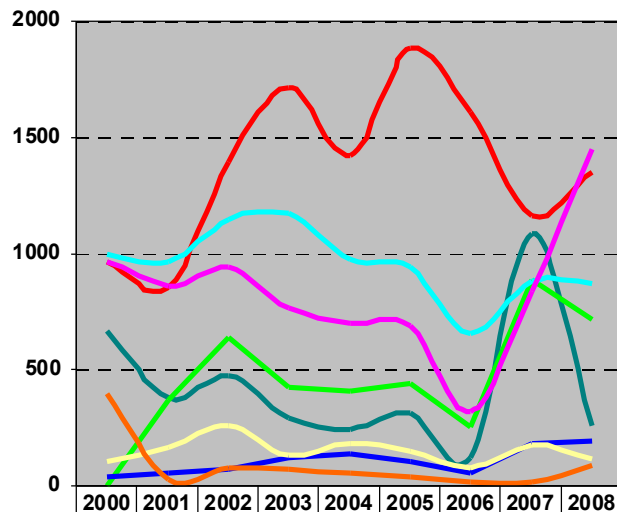
COUNTS IN INVESTIGATIONS OPENED ON USED DEALERS IN FY 2008



INVESTIGATIONS CLOSED

FILES CLOSED IN FY 2008 - COMPARISON WITH PRIOR YEARS

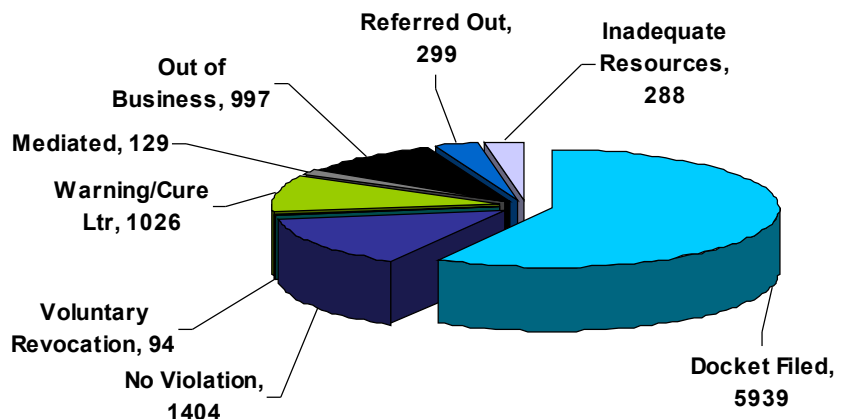
There were 5102 investigative files closed in the FY 2008. These files contained 10,242 counts or allegations of different violations. A large amount of files, over 28%, were closed as no violation found. The number of investigative files associated with dockets also rose. On the positive side, 74% of the files closed in the FY 2008 were closed without a docket being filed.



DOCKETS	963	853	1397	1714	1426	1886	1615	1160	1353
INADEQ RESOURCES	662	376	477	296	245	308	119	1090	260
OUT OF BUSINESS	0	371	641	421	408	439	247	890	712
CURE & WARNING	1003	965	1148	1174	976	937	656	883	874
NO VIOLATION	969	864	937	765	698	689	318	834	1449
REFERRED	35	51	65	117	136	105	49	178	193
MEDIATION	107	165	258	128	181	146	80	172	114
VOLUNTARY REVOCATION	400	25	76	72	53	36	14	18	85

COUNTS WITHIN INVESTIGATIONS CLOSED IN FY 2008

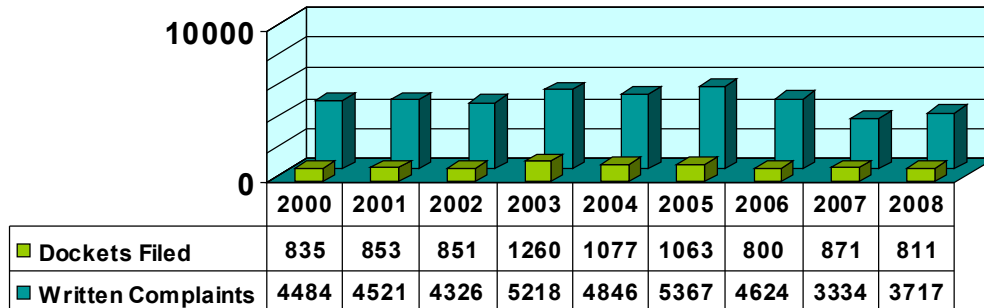
Looking at the number of counts within those files closed, 58% of the 10,242 violations alleged, were filed as a docket. This means when a docket is filed, it is more than likely to contain allegations for more than one violation.



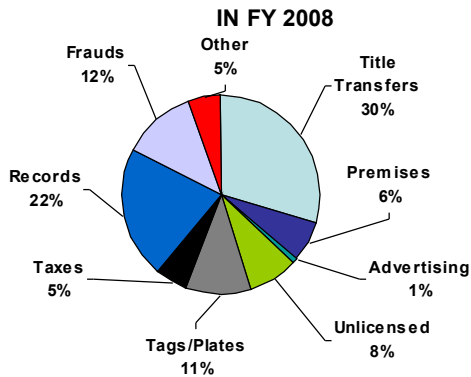
DOCKETS FILED

The number of dockets filed actually went down slightly in FY 2008 while the number of complaints received rose.

HISTORY OF DOCKETS FILED

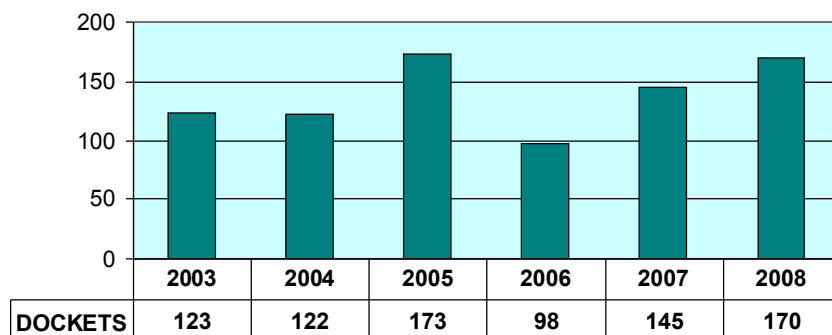


COUNTS OF VIOLATIONS IN DOCKETS FILED

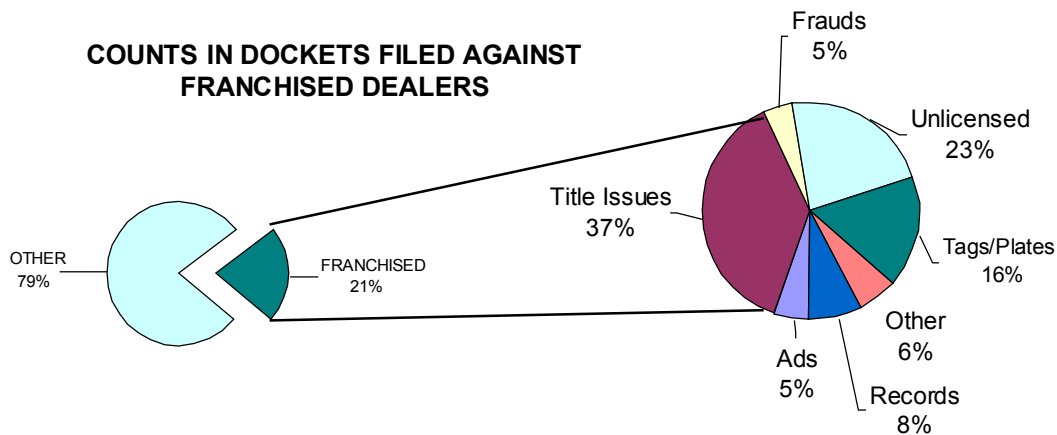


Looking at the number of counts, or allegations within those dockets filed, it can now be determined with more accuracy exactly what and how many violations are being alleged against licensees. Note that record-keeping issues have jumped to the number two slot. They show up much more than previous years when individual counts could not be determined.

HISTORY OF DOCKETS FILED AGAINST FRANCHISED DEALERS IN FY 2008

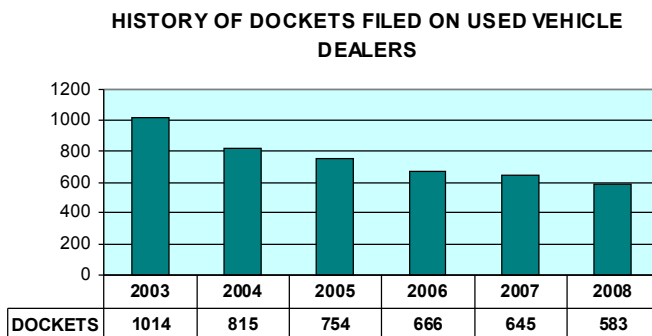


Of the 811 total dockets filed in FY 2008, 170 dockets were filed against franchised dealers. This represents 21% of the total dockets filed which is up 3 percentage points from last year. These 170 dockets contained 796 separate allegations of wrong-doing.



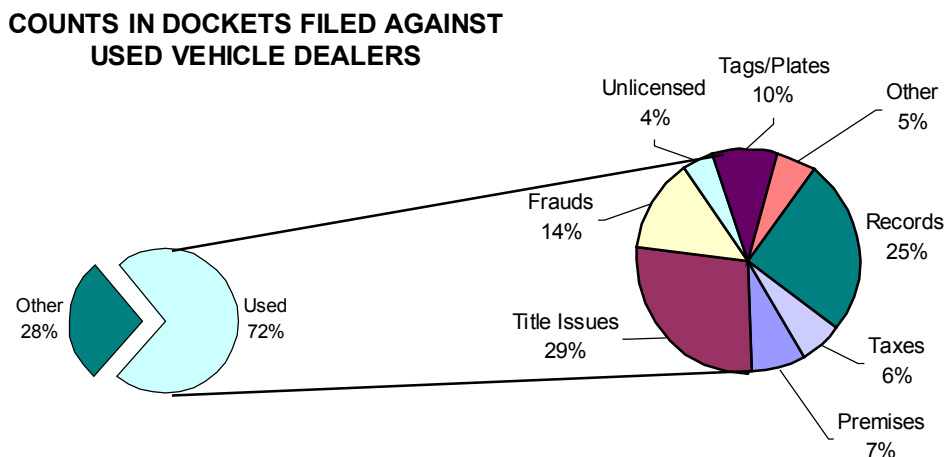
Looking at the 796 counts within those 170 docket, title transfers were the number one allegation as they were last fiscal year. However, allegations of unlicensed sales, and temporary tag and plate violations became more visible.

In FY 2007 advertising complaints represented 23% of the number of dockets filed against franchised dealers. The percentage of advertising dockets filed in FY 2008 dropped to 3.5%.



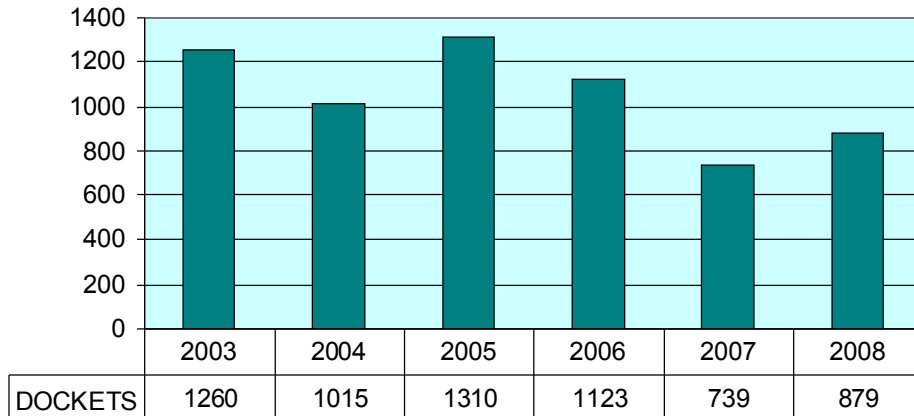
While the number of dockets filed against franchised dealers has climbed in the last three years, the number of dockets filed against used vehicle dealers has been steadily declining. It is felt that the Dealer Training Seminars have a small part in this.

Within the 583 dockets filed against used vehicle dealers in FY 2008, 3915 violations were alleged. Number one problem for used vehicle dealers is title transfer problems which has been number one for the last 3 years. Looking at the number of counts within the dockets, record violations now emerges as a close number two problem.



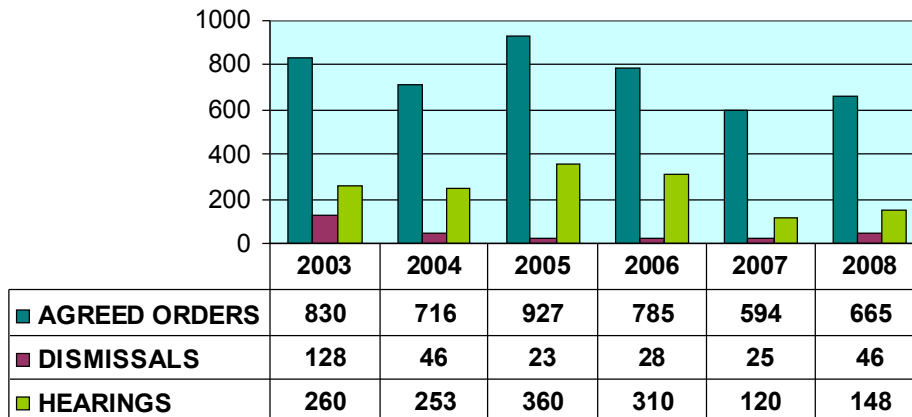
DOCKETS CLOSED

DOCKETS CLOSED SINCE FY 2003



While the number of docket closures within a fiscal year fluctuates, the manner in which dockets are closed shows that hearings and dismissals are up while agreed orders are down. The slow down in 2007 was due to the development and implementation of LACE when resources were diverted to testing.

HISTORY OF HOW DOCKETS CLOSE



HOW DOCKETS WERE CLOSED IN FY 2008

Traditionally, most of the dockets that do go to hearings end with default hearings in which the respondents do not show up, primarily because they have gone out of business by the time the hearings are held. In FY 2008, 105 or 12% were defaults.

THE NOTICE OF VIOLATION (NOV) PROCESS

FY 2008 was the third full year in which the NOV process was fully utilized in the field. The stated purpose of the NOV is to have more of an enforcement presence in the field; address the more minor violations that were often neglected; alleviate some of the paperwork from the attorney staff; educate and stress to the dealer body the importance of following all the rules and enforcing those rules through a less expensive procedure; and, develop a more accurate history on dealer violations. The fines range from \$50 to \$200 for minor violations. An investigator also has the ability to write the dealer a warning citation.

Once a citation is written, whether a warning or a fine, the citation is entered into the database as a historical item on the dealer. A fine is treated similar to a docket and the dealer has all rights of due process including the right to request a hearing on the NOV. Failure to return the Agreed Order attached to the NOV with the prescribed fine will result in a notice of a hearing setting on the citation being sent to the dealer.

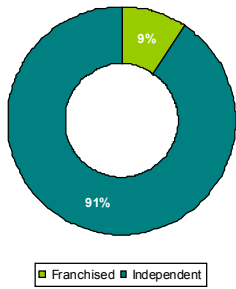
At the close of FY 2008 enforcement investigators had issued 99 NOV citations. This is down from the 176 citations issued last year. This is a major decrease from the 925 issued the first year. These 99 citations represent only 2.6% of the total investigations opened this year. The decrease in NOVs is due to the increased efforts to reduce the number of old cases.

VIOLATION	Franchised	Independent	Inactive Ind	Unlicensed Entity	
BUYERS GUIDE		30	1		31
CONSIGNMENTS		1			1
CURBSTONING	2	5		1	8
FOREIGN DEALER		1			1
PLATES	6	15			21
PREMISES		11			11
RECORDS	3	62			65
RIGHT OF WAY	2	5			7
TAGS	2	19	1		22
OPEN TITLES		8			8
Grand Total	15	157	2	1	175

COUNTS IN NOV CITATIONS OPENED IN FY 2008

Looking at the 175 counts in 99 citations issued, one can see record-keeping violations are far and away the biggest problem. When dealers do not have buyer's guides on the vehicles, are parking on the right-of-way or any other plainly visible violation is seen, investigators will stop and use the opportunity to check records.

**DISTRIBUTION IN PERCENTAGES OF 99
CITATIONS ISSUED IN FY 2008**



Used vehicle dealers traditionally receive the majority of NOV's. The number issued to franchised dealers has decreased from 21% to 9% for this fiscal year. Ironically, looking at the number of counts within the citations, the percentages stay the same with the Independent dealers garnering 91% of the counts.

In fiscal year 2008, the division closed 115 NOV citations. One of the purposes of the NOV's was to conserve resources while improving enforcement presence in the field. With only one dismissal and 5 hearings, considerable attorney time was saved. The 24 closed with warnings represents 21% of the total citations issued in FY 2008.

VIOLATION	AGREED ORDERS	DISMISSALS	HEARINGS	WARNINGS	Grand Total
BUYERS GUIDE	11			2	13
CONSIGNMENTS	7			1	8
PLATES	3			2	5
PREMISES	6		2	2	10
RECORDS	48	1	3	13	65
RIGHT OF WAY	3			3	6
TAGS	4			1	5
OPEN TITLES	3				3
Grand Total	85	1	5	24	115

HOW NOV's WERE CLOSED IN FY 2008

VIOLATION	FRANCHISED	INDEPENDENT	UNLICENSED	TOTAL
BUYERS GUIDE		30	1	31
CONSIGNMENTS		1		1
CURBSTONING	2	5	1	8
FOREIGN DEALER		1		1
PLATES	6	15		21
PREMISES		11		11
RECORDS	3	62		65
RIGHT OF WAY	2	5		7
TAGS	2	19	1	22
OPEN TITLES		8		8
TOTALS	15	157	3	175

**175 COUNTS IN CITATIONS ISSUED DISTRIBUTED BETWEEN
FRANCHISED AND INDEPENDENT DEALERS – FY 2008**

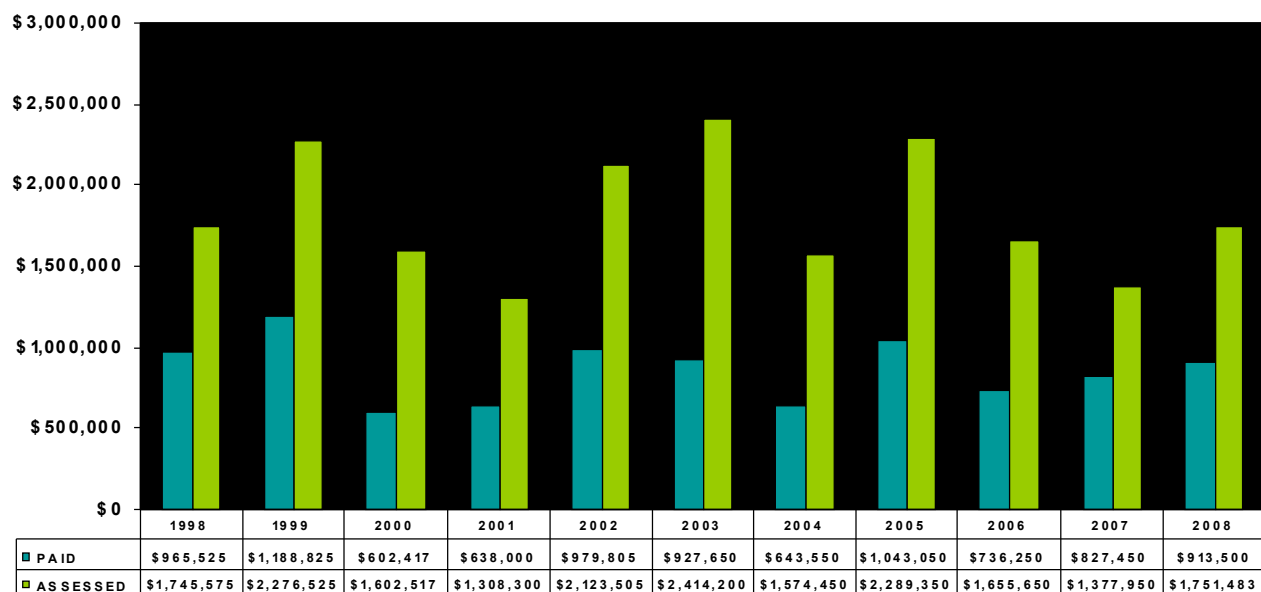
A small amount of civil penalties was paid in FY 2008 by licensees who received NOV citations. More than half of the penalties came from record-keeping violations. The figures are included in the overall civil penalty figures.

VIOLATION	FRANCHISED	INDEPENDENTS	Grand Total
BUYERS GUIDE		\$1,650	\$1,650
CONSIGNMENTS	\$400	\$1,300	\$1,700
PLATES	\$100	\$200	\$300
PREMISES		\$3,350	\$3,350
RECORDS	\$200	\$13,500	\$13,700
RIGHT OF WAY	\$100	\$200	\$300
TAGS		\$450	\$450
OPEN TITLES		\$700	\$700
Grand Total	\$800	\$21,350	\$22,150

CIVIL PENALTIES PAID THROUGH THE NOV PROCESS IN FY 2008

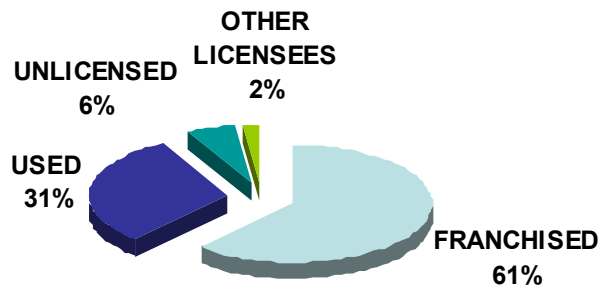
CIVIL PENALTIES

Each fiscal year dockets are closed that represent cases filed not only from the current fiscal year but also from several fiscal years in the past. The figures represent the total amount assessed in that fiscal year, but not necessarily the amount paid as many fines are assessed in default cases on those respondents who do not appear for a hearing. The following chart shows the total amount of civil penalties assessed during the fiscal year and the amount of civil penalties collected in that year.



PENALTIES ASSESSED AND COLLECTED EACH FISCAL YEAR

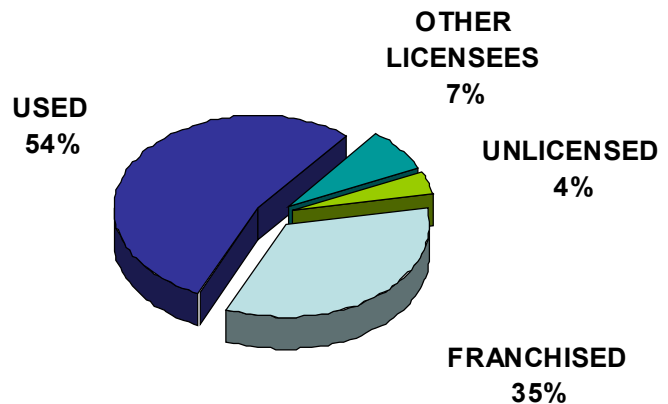
FY 2008 ASSESSMENTS BY TYPE OF RESPONDENT



A total of \$1,751,483 in penalties was assessed in this fiscal year. Due to a few larger penalties, 61% of this amount was assessed against franchised dealers while 31% was assessed against used vehicle dealers. Other licensees garnered 2% of the assessments in FY 2008 as opposed to the 5% assessed FY 2007.

PENALTIES PAID BY TYPE OR RESPONDENT

\$913,500 was actually paid in fines during FY 2008. This figure includes all dockets closed within the fiscal year, regardless of what year the docket was filed in. This amount is down \$21,000 from last year.



OUTREACH EFFORTS

DEALER TRAINING SEMINARS

In an effort to reduce the number of violations by licensees unaware of the laws, rules and policies that regulate motor vehicle sales and distribution, the enforcement section started an education program in 2000 known as the Dealer Training Seminar (DTS). The DTS is presented at different locations each year throughout the state. Last year the number of presentations was increased from eight to seventeen presentations in eleven different cities. The free seminars are scheduled and located in such a manner that every dealer in the state receives an invitation at least once every two years, ensuring everyone has an opportunity to attend and receive updates on changes to the laws, rules and regulations that affect the motor vehicle sales and distribution industry in Texas.

By the end of FY 2008, MVD had trained 9484 attendees over the last nine years. Approximately 69% of attendees were independent dealers, 18% were affiliated with franchised dealerships, and the remaining attendees included tax assessor-collector staff, law enforcement, and other persons who may be considering becoming a licensee.

The program consists of the basic laws involved in operating a motor vehicle dealership, ranging from licensing requirements, daily operations, titling, taxes, financing and advertising. Speakers include staff from not only the enforcement section of MVD, but also from the Vehicle Titles & Registration Division of TxDOT, the Office of the Consumer Credit Commissioner, and the Texas Comptroller's Office.

DTS provides an excellent opportunity to educate the dealer population that has no legal requirement to become educated, and gives the licensees an opportunity to meet MVD and other agency staff members. Such face-to-face meetings have resulted in more understanding on the part of all involved as to the challenges faced by regulators and licensees alike. Most licensees take advantage of the opportunity to talk with agency personnel and ask questions they have been unable to resolve over the phone.

Another opportunity DTS presents is the ability to directly poll the licensee body on issues that affect the industry. Such information is useful to the division in considering policies and rules.

A summary of attendance figures and answers to survey questions taken over the years at DTS seminars follows on the next page.

DTS SURVEY RESPONSES - SUMMARY OF ALL YEARS

Fiscal Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
Attendees	459	800	1472	809	728	1006	952	1373	1885	9484

Survey Responses	449	637	944	531	593	778	706	1077	1542	7257
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Your Business Affiliation?

Franchise	27	135	114	68	124	141	142	212	340	1303	17.96%
Indep	410	374	659	413	403	555	433	627	889	4763	65.63%
Other Licensee		62	75		6	12	3	33	25	216	2.98%
Media	0	0	0	0	0	0	1	0	0	1	0.01%
Other Agency								39	46	85	1.17%
Other Unlicensed	12	43	53	50	33	39	94	47	43	414	5.70%
No Response		23	43		27	31	33	119	199	475	6.55%
	449	637	944	531	593	778	706	1077	1542	7257	

If you are a Texas dealer, how long? If you work for a dealer, how long have you worked in the business?

< 1 yr	74	92	163	91	88	85	71	61		725	14.54%
1 - 10 yrs	221	282	371	212	249	360	259	138		2092	41.97%
> 10 yrs	122	165	229	174	202	220	212	96		1420	28.49%
Not applied yet		61	101	18	14	40	30	9		273	5.48%
Waiting on Lic				8	0	13	16	0		37	0.74%
No Response	32	37	80	28	40	60	118	43		438	8.79%
	449	637	944	531	593	778	706	347		4985	

Have you attended a previous TxDOT Dealer Seminar?

Yes	0	0	0	0	153	264	170	302	541	1430	30.45%
No	0	0	0	0	432	507	528	763	960	3190	67.93%
No Response	0	0	0	0	8	7	8	12	41	76	1.62%
					593	778	706	1077	1542	4696	

Overall, how would you rank the dealer training seminar?

Excellent	0	313	404	270	321	455	472	557	922	3714	53.05%
Good	0	246	345	217	212	248	338	414	463	2483	35.47%
Fair	0	25	23	18	10	18	25	15	20	154	2.20%
Poor	0	6	1	2	2	2	1	0	0	14	0.20%
No Response	0	47	171	24	48	55	63	91	137	636	9.08%
		637	944	531	593	778	899	1077	1542	7001	

Are you in favor of continuing education for dealers?

Yes	409	550	903	512	575	759	679	1042	1469	6898	95.05%
No	8	12	24	9	8	9	15	19	34	138	1.90%
No Response	32	75	17	10	10	10	12	16	39	221	3.05%
	449	637	944	531	593	778	706	1077	1542	7257	

Should the continuing education be mandatory?

Yes	252	435	593	331	407	540	679	711	1034	3237	56.64%
No	154	167	319	179	165	213	15	341	445	1212	21.21%
No Response	43	35	32	21	21	25	12	25	63	189	3.31%
	449	637	944	531	593	778	706	1077	1542	5715	

Should new applicants be required to pass a test before becoming a licensed dealer?

Yes	0	273	489	308	352	454	411	604	872	3763	55.27%
No	0	140	349	191	216	297	273	427	596	2489	36.56%
No Response	0	224	106	32	25	27	22	46	74	556	8.17%
		637	944	531	593	778	706	1077	1542	6808	

Are you in favor of licensing Salespeople?

Yes	0	268	432	228	0	36	269	425	623	2281	42.37%
No	0	224	420	252	0	46	399	564	800	2705	50.25%
No Response	0		92	51	0	9	38	88	119	397	7.38%
		492	944	531	0	91	706	1077	1542	5383	

Should new applicants be required to attend a course like this before receiving a license?

Yes	0	0	0	0	489	652	617	909	1310	3977	84.69%
No	0	0	0	0	91	110	75	145	168	589	12.54%
No Response	0	0	0	0	13	16	14	23	64	130	2.77%
		0	0	0	593	778	706	1077	1542	4696	

Do you have access to the Internet?

Yes	0	0	0	0	0	160	674	731	0	1565	94.73%
No	0	0	0	0	0	3	25	39	0	67	4.06%
No Response	0	0	0	0	0	4	7	9	0	20	1.21%
		0	0	0	0	167	706	779	0	1652	

Are you in favor of the E-Tag?

Yes	0	0	0	0	0	0	455	649	0	1104	82.95%
No	0	0	0	0	0	0	71	94	0	165	12.40%
No Response	0	0	0	0	0	0	26	36	0	62	4.66%
		0	0	0	0	0	552	779	0	1331	

Shaded areas represent years the question was not asked.

The Red Flag program is a specialized program that is presented to the local tax assessor-collectors of the state. The program is designed to teach the front-line agent to quickly recognize a title anomaly that would signal a possible odometer rollback. MVD investigators who are trained in odometer fraud have been training the staff of tax collectors for over seven years now. Over 118 counties have invited the MVD staff to come train their staff. We feel this program is directly responsible for Texas dropping from the number 1 state in odometer rollback violations to number 3.

